

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

WILLIE ROY LEVEL,

Plaintiff,

VS.

HAM,

Defendant.

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NO. 5:16-CV-00510-CAR-MSH

ORDER

Pro se Plaintiff Willie Roy Level, who was most recently confined at the Riverbend Correctional Facility in Milledgeville, Georgia, filed a pleading that was construed as a complaint pursuant to 42 U.S.C. § 1983, but failed to pay the filing fee or file a complete and proper motion for leave to proceed without prepayment of the filing fee. As such, in an Order dated January 13, 2017, the United States Magistrate Judge ordered Plaintiff to submit a proper motion for leave to proceed without prepayment of the filing fee and also ordered Plaintiff to recast his complaint on the Court's standard form. Plaintiff was warned that his failure to comply with the Magistrate Judge's Order could result in dismissal of Plaintiff's action, and he was also directed to inform the Court of any change in his mailing address. Plaintiff was given twenty-one (21) days to comply with the Magistrate Judge's Order. ECF No. 6 at 1-2.

The time for compliance passed without a response from Plaintiff. Thus, on March 13, 2017, the Magistrate Judge ordered Plaintiff to respond and show cause why his lawsuit should not be dismissed for failure to comply with the Court's orders and

instructions. Plaintiff was again given twenty-one (21) days to respond, reminded of his obligation to inform the Court of any change in address, and warned that failure to respond would result in the dismissal of his Complaint. ECF No. 7 at 1-2.

The time for compliance again passed with no response from Plaintiff, and the show cause order was returned to the Court as undeliverable. *See* ECF No. 8. Accordingly, because of Plaintiff's failure to comply with the Court's instructions and orders, his failure to otherwise diligently prosecute this action, and because it does not appear his claims would be barred by the applicable statute of limitations, his Complaint shall be **DISMISSED without prejudice**. *See* Fed. R. Civ. P. 41; *see also Brown v. Tallahassee Police Dep't*, 205 F. App'x 802, 802 (11th Cir. 2006) (per curiam) ("The court may dismiss an action *sua sponte* under Rule 41(b) for failure to prosecute or failure to obey a court order.") (citing *Lopez v. Aransas Cnty. Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir.1978)).

SO ORDERED, this 1st day of May, 2017.

S/ C. Ashley Royal
C. ASHLEY ROYAL, SENIOR JUDGE
UNITED STATES DISTRICT COURT